

LETTER

OF

J. GREGORY SMITH,

President of the Northern Pacific railroad, addressed to Hon. George F. Edmunds, enclosing two communications in relation to the treaty with Great Britain concerning the island of San Juan.

MARCH 22, 1869.—Ordered to lie on the table and be printed.

WASHINGTON, February 20, 1869.

DEAR SIR: As the consideration of the treaty recently made by the United States minister, Mr. Johnson, embracing the San Juan island question, will soon be, if it is not already, before the United States Senate, I beg leave to hand you two communications bearing upon the subject which contain much valuable information, as the authors are personally familiar with the Pacific coast; the one from the Hon. George Gibbs, who has resided in Washington Territory some 17 years, having been connected with the northwest boundary survey as geologist; and the other from G. Clinton Gardner, esq., the assistant astronomer and engineer of the expedition.

These gentlemen speak from personal knowledge, Mr. Gardner having himself surveyed the water-line between British America and the United States, as well as all the channels existing between the various islands in the gulf of Georgia and the archipelago of de Haro.

This was done under the direction of the Hon. Archibald Campbell, the United States commissioner of the northwestern boundary survey, who is now in this city, and can give much valuable information upon this subject.

I trust no action of the Senate will be taken which shall surrender the island of San Juan to Great Britain.

I am, very respectfully, yours,

J. GREGORY SMITH,
President Northern Pacific Railroad.

Hon. GEO. F. EDMUNDS,
United States Senate.

WASHINGTON, February 4, 1869.

SIR: In reply to your letter of yesterday, on the so-called "San Juan question," I have to say, that I am utterly opposed to Mr. Johnson's convention, referring the title of the island to the "President of the Swiss Confederation."

In the first place, I think it derogatory to the honor of the United

States to refer the question at all. The joint occupation of the territory on the Pacific was terminated by the treaty of 1846, the line of the 49th parallel being adopted as the basis; but as this line, prolonged to the sea, would cut off a part of Vancouver island, Mr. Buchanan fatally consented to deflect it through the gulf of Georgia and the strait of Fuca, using the words, "the middle of the channel which separates the continent from Vancouver's island." It was perfectly well understood at the time that the compact group of intermediate islands, of which San Juan is one, and which lies entirely south of the 49th parallel, would belong to the United States; and Mr. Benton expressly referred to the fact in the debate when urging the ratification of the treaty. Subsequently, however, the British, with whom it seems impossible to make a treaty that shall be a finality, started the claim to the entire group, insisting that the comparatively insignificant Canal de Rosario, which merely separates the continent from those smaller islands, was to be taken as the one "which separates the continent from Vancouver's island," instead of the larger and deeper Canal de Haro, lying nearer to Vancouver island. Their motive was obvious enough. They saw that this group, taken together, could be completely fortified; that in its land-locked harbors all the navies of the world could lie safely, and that the United States would then possess a naval position covering at once the gulf of Georgia, Fuca strait, and Puget sound, thus holding England in check in those waters.

On the whole line of our coast, from San Diego to the strait of Fuca, San Francisco is the only harbor at once accessible and defensible. The ownership of the southern end of Vancouver island gave to Great Britain Barclay sound, one side of the strait of Fuca, with the admirable harbor of Esquimalt, and the islands of the Saturna group, bordering the easterly side of Vancouver island. The islands nearer the continent, of which San Juan is the most western, are our only protection against this immense advantage, and this she wishes to deprive us of.

Great Britain, in fact, seems to think herself entitled to all the strategic points of the world. Malta and Gibraltar and the Cape of Good Hope are but instances of this grasping spirit of dominion. If we now give up our position on the gulf of Georgia, the Sandwich Islands will be the next point coveted. She knows well that this great inlet, the strait of Fuca, and the waters opening into it, Puget sound, and the gulf of Georgia, must be the commercial centre of the North Pacific. So far it has had no development, except as the source from which the lumber of the countries bordering on that ocean has been obtained. But it is the nearest point to China and Japan; it is the nearest point to the Canadas, to New England, and to New York. The power that owns it will control absolutely, by its interior railroads, the trade of one-third of the continent, independent of that of Asia. If the United States carries through this enterprise of the Northern Pacific railroad, Great Britain will not undertake another route, or if she does, it will be a failure. In the acquisition of Alaska, an act of statesmanship second only to the purchase of Louisiana, we have flanked the British territories on the north. I trust we shall not lose the vantage-ground thus obtained.

The idea undoubtedly existing in the minds of those who put forth this claim was, that sooner than make the subject an occasion of war, we would compromise by the adoption of an intermediate line, the channel known on our maps as "President's passage," which separates San Juan from Orcas and Lopez islands, and in this way they would break the continuity of the chain, and in fact steal the key of the lock. They

hoped also to gain the cession of Point Roberts, a part of the continent falling south of the parallel, and a commanding position on the gulf of Georgia, near the entrance to Fraser river.

The danger of war was a bugbear. It is now known that, when the original treaty was made, the British government would have yielded the whole of Vancouver island rather than fight; and that later, if firmly met, she would have receded from her claim to the San Juan group. The movement of General Harney, in taking military possession of San Juan, was the right one. There was a vast deal of bluster and threatening on the part of the British, but there would have been no fighting to get possession of it; but Mr. Buchanan, then President, made another fatal mistake. He sent out General Scott to compromise once more, and a new joint occupation was agreed upon. The duplicity of the British in this matter was shown during the joint survey of the northwest boundary. While the American commissioner, Mr. Archibald Campbell, had full powers to settle the line, his English colleague, Captain Prevost, of the British navy, had secret instructions not to settle unless San Juan island was yielded, and the negotiations were continued for months in vain before the reason leaked out.

The idea seems to prevail that England, becoming indifferent to the possession of these western territories, only wants to be "let down gracefully." This mistake will prove as ruinous as the others. She never was more determined to hold on to these points than now. If she is to lose her possessions on the Pacific, as she must eventually, she wishes to make us pay the heaviest penalty for the acquisition. She will get all the higher price for holding San Juan and Point Roberts. The Reverdy Johnson treaty shows this in every line. The question of the true construction of the treaty of 1846 is *not* the one submitted. The story is told in the second and in the separate articles. The second article reads thus:

If the referee should be unable to ascertain and determine the precise line intended by the words of the treaty, it is agreed that it shall be left to him to determine upon *some* line which, in his opinion, will furnish an *equitable* solution of the difficulty, and will be the nearest approximation that can be made to the accurate construction of the treaty.

And the "separate article" (a perfect anomaly in diplomacy) provides that this treaty shall not go into operation or have any effect until the question of NATURALIZATION, now pending, shall have been satisfactorily settled. If that does not mean that San Juan island (and Point Roberts too) is to be given up as a consideration of the naturalization treaty, it has no meaning.

The settlement of this question is left to the arbitration of the "President of the Swiss Confederation." We might well hesitate at the submission of so important a matter to a person of whose functions and abilities we know nothing, who may or may not be a lawyer or a statesman. But what shall we say when we find that there is no such person in existence? There is no "President of the Swiss Confederation." There are presidents of the *Conseil National*, of the *Conseil des Etats*, and of the *Conseil Fédéral*; three presidents after a fashion; that is, presiding officers of three different bodies, who are elected annually. But to which of them is this subject submitted? Is it to President Kaiser, of Soleure, to President Äppli, of St. Gall, or to President Dubs, of Zurich?

And why was it not submitted (if there is to be any submission) as a question, pure and simple, of the interpretation of the treaty of 1846? Are we to compromise every fresh claim that Great Britain may set up on any occasion by a new concession? If there is a real doubt about the true intent and meaning of that treaty, let us submit it *as such*, and submit it to some authority, high enough, learned enough, and responsible enough, to decide it at once.

Submit it for example to the consideration of some body of jurists of eminence and character; to the "courts of cassation" of France, the ultimate law court of appeals of the French empire; to the faculties of law of Heidelberg or Berlin, rather than to any sovereign, or potentate, or president, who may be governed by ideas of what is politic, or of what is "equitable." Such a reference would be, it is true, a novelty in the affairs of nations; but we have a parallel in the jurisdiction of our own Supreme Court. One hears there, as the great French jurist de Tocqueville remarked with admiration, the cause called (for example) of the State of Massachusetts *vs.* the State of New York. Why not, then, in a case like this, of the interpretation of a treaty, or, as in that of the Alabama claims, one of the interpretation of international obligation, submit it to such courts? Our own Supreme Court might, in like manner, be the arbiter between other nations.

Whether or not the court of cassation would assume this office, of course I do not know; I merely present the suggestion; but if it did, its intervention would elevate the consideration of the great courts of justice throughout the civilized world, and would lessen the danger of wars, springing from the uncertainty of diplomatic controversy, and from the interests or prejudices of rulers.

So far as the Northern Pacific railroad is concerned, one of its western termini must ultimately be on Puget sound, and it will never do to leave it entirely under British guns. More than that, the command of the sound involves that of the Columbia river, for two days' march from its head would carry a hostile force to the mouth of the Cowlitz, with no possible obstruction, except such an interior line of forts as the government never would consent to keep up, and the population of the country would not justify. It is far better even to leave the island as it stands, in joint occupation, until we are ready to take it.

I have said nothing on the importance of the route of the Northern Pacific railroad, that must speak for itself. Its completion is the conquest of British America. What is called "the fertile belt," the country of the Saskatchewan and the Red River of the North, becomes *ex necessitate rei* an appanage of the United States by its construction. Its eastern terminus is of course the city of New York, which thenceforth supersedes London as the commercial capital of the world.

I am, very respectfully, your obedient servant,

GEORGE GIBBS.

HON. J. GREGORY SMITH.

566 NEW JERSEY AVENUE, WASHINGTON,
February, 4, 1869.

DEAR SIR: It gives me pleasure to state, in reply to your letter, that any information in regard to the islands near our northwest boundary in my possession is at your service.

In our conversation a few evenings ago I called attention to the importance of the islands between Vancouver island and the main-land as an offset in a strategical point of view to the southern portion of Vancouver island, which, it is to be regretted, was not placed within our territory by extending the 49th parallel across to the Pacific ocean. This parallel of north latitude extended west from the gulf of Georgia would have given us one-quarter of Vancouver island, and on the Pacific shore, as it crosses the northern part of Barclay sound, we would have been in possession of its harbors, as well as those south and east of it on the

island coast. The most important harbors, and in fact the only ones, in the strait of Juan de Fuca are on the Vancouver island shore, for on the south side of Fuca strait there are but a few open roadsteads.

At the entrance of Fuca strait, on the north side, there are also extensive fishing banks, extending west, in from 40 to 100 fathoms water, which at no distant day will rival those of Newfoundland; and for fishing purposes the harbors formed by the numerous islands studding Barclay sound are most convenient.

Barclay sound is the outlet to a greater portion of Vancouver island, which is drained through the Alberni canal, that extends 25 miles through a mountainous range to the basin, as it were, of the island, a level country heavily timbered and watered by a large stream that receives its supply from a chain of lakes penetrating still further north.

These acquisitions would have been of great value to American interests, being at the entrance of and upon the Juan Fuca strait, that leads to the extensive waters a short distance east; and now, unless we secure San Juan island, with its harbor, the commerce of this vast inland sea will be, to a great extent, paralyzed, if not controlled, by an opposing naval power.

These islands, extending from the 49th parallel south to the strait of Juan de Fuca, have an area of about 355 square miles; and the principal continuous channels south to the Fuca strait may be stated as follows, viz:

1. Through Portier Pass south by Swanson channel and the Canal de Haro, leaving 90 square miles of islands to the west and 265 square miles to the east.
 2. Through Active Pass south by the Swanson channel and the Canal de Haro, leaving 110 square miles to the west and 245 to the east.
 3. Through the Canal de Haro, leaving 145 square miles to the west and 210 to the east.
 4. Through President's passage, Ontario roads, and Little Belt passage, leaving 210 square miles to the west and 145 square miles to the east.
- And finally through Rosario strait, placing 310 square miles to the west, or all the islands with the exception of Cypress, Guemes, Sinclair, Lummi, and a few smaller ones, comprising only about 45 square miles.

In the geographical memoir published in executive document of Senate, No. 29, 2d session 40th Congress, a full description of these islands is given, with a map and cross-section showing conclusively "the channel which separates the continent from Vancouver's island." In the construction of that map, tracing out each 10-fathom curve, it appears that the strongest currents are from the gulf of Georgia south to the Fuca strait, through the two main channels, the Canal de Haro on the west and Rosario strait on the east; and in order to show at a glance nature's dividing line the 10-fathom curves as far as the 70th fathom have been shaded by sanding; and using the map to illustrate the channel question, I suggested following the strongest current, and gave the comparison of the two channels that is more fully stated under the heading of "channels" in the geographical memoir.

The position of these islands bears an important relation to the terminus of the North Pacific railroad, if that is to be upon the waters of Puget sound. Independent of their commanding position as naval or military stations, controlling, as they will, the principal outlet of Washington Territory, they of necessity will be the outlet for all that portion north of the Skagit river; and to leave that question to arbitration is to suggest an equal division.

It has been and doubtless is still the intention of the English govern-

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ment to have a Pacific railroad from Canada built, and ultimately to carry their China and India trade of the Pacific through the British possessions; and knowing as we do the advantages they have for that enterprise, it behooves us to use every effort to first occupy that ground, for, if it is of advantage to them, how much more so is it to us. As to the country on the west, the passes north of the 49th parallel, in both the Cascade and Rocky mountains, are lower and easier of access than those within our territory. Following the Fraser river, and its Lillowit or Harrison River branch, thence crossing to the upper Fraser, they have a low pass to the navigable waters of the upper Columbia river. So the trade that we now carry on with the gold mines of the Columbia River valley, by the navigation of that river for 250 miles north of the 49th parallel, will be carried west through British Columbia. These mines have yielded as much as \$500 per day to the men for weeks, and from a single claim over \$100,000 of gold has been taken. These are the local inducements that the English have for building a Pacific railroad, and they have been constantly at work to ascertain the most practicable route by which they can connect their gold fields with the rich agricultural country of the Saskatchewan, that only awaits an outlet, when its resources will be rapidly developed.

In their route from Canada the only difficult portion is that north of the lakes in reaching the Red River of the North. Yet there they will have the navigation of the lakes; so that will not prevent them from establishing their route, and making the east and west terminus two great depots of British trade, drawing to them at the same time the resources of our whole country along the boundary from Lake Superior to the Pacific ocean. Whereas we, by building the North Pacific railroad, will draw the wealth of their country into our coffers, as we are now doing, by the navigation of the upper Columbia, and the trails opened by the northwest boundary surveying parties to the Kootenay gold fields, and eventually we will fall heir to all British possessions. It therefore becomes a necessity that we should have a road near our northern border, not only as the most direct route to China, India, &c., but to save our own resources, or they, with the vast Saskatchewan and British Columbia, will be drained west over the islands now in dispute, and via Victoria, Vancouver island, out through the Fuca strait, giving England the control of that commerce. Thus the vast lumber trade of Puget sound, and the limestone and coal of the islands, will be lost to American interests, to say nothing of the fisheries that are soon to become the most important of the world.

If that country had been better known at the commencement of the discussion of the Oregon boundary, instead of the talk about trading all Oregon for the Newfoundland fisheries, our rights to the claim for 54° 40' would have been insisted upon, which would have given us by far more extensive fishing grounds than those of the Atlantic.

With regard, I remain your obedient servant,

G. CLINTON GARDNER.

Gov. J. GREGORY SMITH,
Ebbitt House.

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